

JOURNAL OF THE HOUSE.

Wednesday, May 17, 2006.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Eternal God, we depend upon You, Your guidance, direction and gift of wisdom as we take up and evaluate the items on the day's calendar in our search for truth and justice. Your assistance enables us to sift through the vast amount of data and information, some incorrect, as we struggle to meet the present and future needs of people and society. Inspire us to be objective, thoughtful and faithful to our ideals and values in making our personal and legislative decisions. Help us, as elected leaders, to be creative but realistic as we encourage all people to utilize their personal talents for self-improvement and the common good.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Governor.

Service members, support for families.

A message from His Excellency the Governor recommending legislation relative to further supporting service members and their families (House, No. 4966) was filed in the office of the Clerk on Tuesday, May 16.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Revenue. Sent to the Senate for concurrence.

Statement Concerning Representative Kafka of Stoughton.

Statement concerning Representative Kafka of Stoughton.

A statement of Mr. Rogers of Norwood concerning Mr. Kafka of Stoughton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kafka of Stoughton, was not present in the House Chamber for today's sitting due to a long-standing commitment. Had he been present, he would have voted in the affirmative on roll calls 417, 419, 421, 422, 424, 426, 427 and 428 and in the negative on roll calls 423 and 425. Any roll calls that he missed today was due entirely to the reason stated.

Statement Concerning Representative Malia of Boston.

A statement of Mr. Rogers of Norwood concerning Mrs. Malia of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Malia of Boston, will not be present in the House Chamber for today's sitting due to an unexpected emergency situation. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement concerning Representative Malia of Boston.

Statement Concerning Representative Paulsen of Belmont.

A statement of Mr. Rogers of Norwood concerning Mrs. Paulsen of Belmont was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Paulsen of Belmont, will not be present in the House Chamber for today's sitting due to a previously scheduled family commitment. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement concerning Representative Paulsen of Belmont.

Guests of the House.

During the session, Mr. Donato of Medford took the Chair and introduced Jillian Bozza of Ashby and Ashley Jokinen of Oxford, the nieces of Chief Court Officer Gene DiPersio.

Jillian Bozza and Ashley Jokinen.

Orders.

The following order (filed by Mrs. Owens-Hicks of Boston) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Children and Families be granted until Thursday, June 8, 2006, within which time to report on current House numbers 2858, 2870 and 3864.

Children and Families committee, extension of time for reporting.

Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mrs. Owens-Hicks, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

The following order (filed by Mr. Mariano of Quincy) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Financial Services be granted until Thursday, June 15, 2006, the time within which to make its final report on House bills 1542 and 4128.

Financial Services committee, extension of time for reporting.

Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. Mariano, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Bradley of Hingham, petition (subject to Joint Rule 12) of Garrett J. Bradley and Robert L. Hedlund (by vote of the town) for legislation to authorize the Water Resources Authority to supply sewer services to certain property in the town of Hingham.

Hingham, sewer services.

Medford,
Flynn
Memorial
Rink.

By Mr. Casey of Winchester, petition (subject to Joint Rule 12) of Paul C. Casey and Michael E. Festa that the Division of Capital Asset Management and Maintenance be authorized to enter into a lease agreement to provide for the continued operation of the Flynn Memorial Rink in the city of Medford.

Lyme
disease,
medical
care.

By Mrs. Gomes of Harwich, petition (subject to Joint Rule 12) of Robert A. O'Leary and others that the Department of Public Health be directed to provide for a state-wide education program for the detection and treatment of "Lyme" disease.

Gas tax,
temporary
repeal.

By Mr. Jones of North Reading, petition (subject to Joint Rule 12) of Bradley H. Jones, Jr., and others relative to temporarily suspending the excise on the sale of gasoline.

Labor laws,
enforcement.

By Mr. Leary of Worcester, petition (subject to Joint Rule 12) of Timothy P. Murray and others relative to enforcement of labor laws by the district attorneys of the Commonwealth.

Health
insurance,
cities and
towns.

By the same member, petition (subject to Joint Rule 12) of James B. Leary and John W. Scibak for the appointment of a special task force (including members of the General Court) for the purpose of making recommendations for stabilizing or reducing the cost of health insurance for the cities and towns of the Commonwealth.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

State
Administration
and Regulatory
Oversight,
time for
reporting.

The House Order relative to extending until Wednesday, May 10, 2006, the time within which the committee on State Administration and Regulatory Oversight is authorized to report on certain Senate and House documents, came from the Senate with the endorsement that it had been adopted, in concurrence, by said branch, with an amendment striking out the date: "Wednesday, May 10" and inserting in place thereof the date: "Monday, May 22".

Under suspension of the Rule 35, on motion of Mr. Cabral of New Bedford, the amendment was considered forthwith; and it was adopted, in concurrence.

Michael L.
Buckley,
veteran
status.

A Bill relative to the veteran status of Michael L. Buckley (Senate, No. 2468) (on Senate, No. 2017), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

North Central
Correctional
Institution,
inspection.

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to an inspection of the North Central Correctional Institution, in the city of Gardner, was spread upon the records of the House; and returned to the Senate.

Oxford,
water
supply.

A petition (accompanied by bill, Senate, No. 2548) of Richard T. Moore, Paul Kujawski, Paul K. Frost and Mark J. Carron (by vote of the town) for legislation to authorize the town of Oxford to provide certain water supply improvements, was referred, in concurrence, to the committee on Environment, Natural Resources and Agriculture.

A petition of Marc R. Pacheco and David L. Flynn for legislation to establish a sick leave bank for Cheryl Ferrara, an employee of the Department of Mental Retardation, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

Cheryl
Ferrara,
sick leave
bank.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2550) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rules 12 and 7A be suspended on the petition of Robert K. Coughlin and Marian Walsh that employees of the Dedham-Westwood Water District be eligible for membership in the retirement system of Norfolk County. Under suspension of the rules, on motion of Mr. Hynes of Marshfield, the report was considered forthwith. Joint Rules 12 and 7A were suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Dedham-
Westwood
Water
District.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Steven M. Walsh and Thomas A. Golden, Jr., relative to the safeguarding and monitoring of prescription drugs by the Department of Public Health and the diversion investigation unit of the Division of State Police. Under suspension of the rules, on motion of Mr. Koutoujian of Waltham, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Health. Sent to the Senate for concurrence.

Prescription
drugs,
safeguarding.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Municipalities and Regional Government be authorized to make an investigation and study of certain Senate and House documents concerning municipal issues (House, No. 4849) reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3596) of Michael G. Bellotti and others relative to cities and towns entering into agreements with a sheriff's department to provide mutual aid services,— and recommending that the same be recommitted to the committee on Municipalities and Regional Government. Under Rule 42, the report was considered forthwith; and it was accepted.

Sheriffs,
mutual aid
services.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, asking to be discharged from further consideration of the Bill regarding choice of long term care setting (House, No. 2898),— and recommending that the same be referred to the committee on Ways and Means. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence in the discharge of the committee.

Long-term
care
setting.

Benjamin Franklin, official inventor.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill designating Benjamin Franklin as the official inventor of the Commonwealth (House, No. 4690) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Ms. Rogeness of Longmeadow, the bill was read a second time forthwith; and it was ordered to a third reading.

Debra A. Flagg, sick leave.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill establishing a sick leave bank for Debra A. Flagg, an employee of the Department of Mental Retardation (House, No. 4915) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Cabral of New Bedford, the bill was read a second time forthwith; and it was ordered to a third reading.

Prescription drug coverage.

By Mr. Mariano of Quincy, for the committee on Financial Services, on a petition, a Bill relative to providing equity in the provision of prescription drug coverage (House, No. 2961).

Health insurance.

By the same member, for the same committee, on a petition, a Bill relative to assignment of health insurance benefits (House, No. 2967).

Health plans, electronic access.

By the same member, for the same committee, on a petition, a Bill relative to access to the electronic delivery of health plan documents (House, No. 2978).

Liability insurance.

By the same member, for the same committee, on Senate, No. 617 and House, Nos. 2966, 3059 and 3083, a Bill relative to professional liability insurance (House, No. 3059).

Health insurance claims, denials.

By the same member, for the same committee, on House, Nos. 3060 and 3906, a Bill to limit retroactive denials of health insurance claims (House, No. 3060).

Patient observation.

By the same member, for the same committee, on a petition, a Bill to define the use of observation services (House, No. 3067).

Health plan documents.

By the same member, for the same committee, on a petition, a Bill to access to the electronic delivery of health plan documents (House, No. 3076).

Students, health insurance.

By the same member, for the same committee, on a petition, a Bill relative to increasing the accessibility of health insurance to students in the Commonwealth (House, No. 3079).

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By the same member, for the same committee, on a petition, a Bill relative to certain students receiving health benefits (House, No. 3907).

Life insurance.

By the same member, for the same committee, on Senate, No. 579 and House, No. 3038, a Bill relative to insurance lawful travel by applicants for life and disability insurance and insured individuals (House, No. 4962).

Medical malpractice.

By the same member, for the same committee, on House, No. 3904, a Bill relating to medical malpractice liability of health professionals in emergency response (House, No. 4963).

Nurses, staffing.

By Mr. Koutoujian of Waltham, for the committee on Public Health, on House, No. 2663, a Bill relative to patient safety (House, No. 4965) [Senator Buoniconti dissenting].

Severally read; and referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Mariano of Quincy, for the committee on Financial Services, on a petition, a Bill relative to licensing fees (House, No. 1530).

By the same member, for the same committee, on a petition, a Bill relative to the conversion by a Massachusetts-chartered bank or credit union to a federal or other charter (House, No. 3069).

By the same member, for the same committee, on a petition, a Bill relative to establishing a mutual bank charter in the Commonwealth (House, No. 4074).

By the same member, for the same committee, on a petition, a Bill establishing uniform enforcement provisions and making other changes applicable to certain licensees under the jurisdiction of the Division of Banks (House, No. 4075).

By the same member, for the same committee, on a petition, a Bill relative to certain actions by and transactions before the Board of Bank Incorporation and the Commissioner of Banks (House, No. 4076).

By the same member, for the same committee, on House, No. 3081, a Bill relative to the board of appeals (House, No. 4964).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Recesses.

At fourteen minutes after eleven o'clock A.M., on motion of Mr. Donato of Medford (Mr. Petrolati of Ludlow being in the Chair), the House recessed until the hour of one o'clock P.M.; and at that time the House was called to order with Mr. Petrolati in the Chair.

The House thereupon took a further recess, on motion of Mr. Nangle of Lowell, until half past one o'clock; and at eighteen minutes before two o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

The House thereupon took a further recess, on motion of Mr. Hynes of Marshfield, until two o'clock; and at twenty minutes after two o'clock the House was called to order with Mr. Donato of Medford in the Chair.

The House thereupon took a further recess, on motion of Mr. Flynn of Bridgewater, until a quarter before three o'clock; and at twenty-two minutes after three o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Quorum.

Mr. Donato of Medford thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 150 members were recorded as being in attendance.

[See Yea and Nay No. 416 in Supplement.]

Therefore a quorum was present.

Emergency Measure.

School
employees.

The engrossed Bill extending eligibility for health insurance for school employees (see House, No. 4654, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Emergency
preamble
adopted,
yea and nay
No. 417.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and on the question on adoption of the emergency preamble, the sense of the House was taken by yeas and nays, at the request of Mr. Kaufman of Lexington; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 417 in Supplement.]

Therefore the emergency preamble was adopted. Sent to the Senate for concurrence.

Engrossed Bill.

Bill
enacted.

The engrossed Bill designating the South Boston Court House as the Chief Justice Joseph F. Feeney Courthouse (see House, No. 3445) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Senate bills

Third
reading
bills.

Relative to the purple heart highway in Worcester County (Senate, No. 1930) (its title having been changed by the committee on Bills in the Third Reading);

Designating a certain bridge in the town of Carver as the SFC Robert Rooney Bridge (Senate, No. 1944); and

Validating the proceedings of the annual town elections in the town of Royalston (Senate, No. 2188);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills

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Relative to the charter of the town of Westborough (House, No. 4392);

Providing for a partial release of certain land in the town of Hatfield from the operation of an agricultural preservation restriction (House, No. 4472) (its title having been changed by the committee on Bills in the Third Reading);

Validating certain orders passed by the Barnstable town council (House, No. 4627);

Authorizing the town of Needham to construct and maintain a common sewer through land acquired for conservation purposes (House, No. 4767); and

Authorizing the town of Canton to grant certain easements (House, No. 4948) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

The House Bill relative to betterment assessments in the town of Marion (House, No. 4201), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Marion,
betterment
assessments.

Pending the question on passing the bill to be engrossed, Mr. Straus of Mattapoisett moved that it be amended by adding at the end thereof the following section:

“SECTION 5. Notwithstanding any general or special law to the contrary, the Town of Marion may assess and collect interest on sewer assessments at a rate equal to that chargeable to the Town of Marion.”

The amendment was adopted; and the bill (House, No. 4201, amended) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill relative to streamlining and expediting the permitting process in the Commonwealth (House, No. 4741) was read a second time.

Permitting
process,
expand.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended in section 3 (as printed), in line 1, by striking out the following: “4G” and inserting in place thereof the following: “4H”; by striking out section 15 and inserting in place thereof the following section:

“SECTION 15. Chapter 185 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 3 the following new section:

Section 3A. There shall be established a separate session of the land court department, which shall be known as the permit session of the land court department.

Sessions of the permit session shall be held in Suffolk, Middlesex, Essex, Norfolk, Plymouth, Worcester and Hampden counties, and such other counties as the chief justice of the land court department shall from time to time designate.

The permit session shall have original jurisdiction, concurrently with the superior court department, over civil actions in whole or part: (a) based on or arising out of the appeal of any municipal, regional or state permit, order, certificate or approval, or the denial thereof, concerning the use or development of real property, including without limitation appeals of such permits, orders, certificates or approvals, or denials thereof, arising under or based on or relating to chapter 21, sections 61 through 62H, inclusive, of chapter 30, chapters 30A, 40A, 40B, 40C, 40R, 41, 43D, 91, 131, 131A, or sections 4 and 5 of chapter 249, or chapter 665 of the acts of 1956; or any local bylaw or ordinance; (b) seeking equitable or declaratory relief (i) designed to secure or protect the issuance of any municipal, regional or state permit or approval concerning the use or development of real property or (ii) challenging the interpretation or application of any municipal, regional or state rules, regulations, statutes, laws, bylaws, ordinances concerning any permit or

Permitting
process,
expand.

approval; (c) claims under chapter 231, section 6F or for malicious prosecution, abuse of process, intentional or negligent interference with advantageous relations or intentional or negligent interference with contractual relations arising out of or based on or relating to the appeal of any municipal, regional, state permit or approval concerning the use or development of real property; and/or (d) any other claims between persons holding any right, title or interest in land and any municipal, regional or state board, authority, commission or public official based on or arising out of any action taken with respect to any permit or approval concerning the use or development of real property.

Notwithstanding any other General Law to the contrary, any action not commenced in the permit session, but within the jurisdiction of the permit session as provided in this section, shall be transferred to the Permit Session, upon motion by any party to the chief justice for administration and management. There shall be a presumption against more than one transfer of a case between any departments of the trial court.

Each case filed in the permit session shall be assigned to a single judge from the commencement to the conclusion of the case. The judge assigned to the case will hold all hearings and preside at the trial, except in the case of death, disability, expiration of judicial appointment to the permit session or emergency.

At the time of filing, all cases in the permit session shall be assigned to one of the following tracks: twelve (12) months to trial (Average or 'A' Track); nine (9) months to trial (Fast or 'F' Track); or six (6) months to trial (Accelerated or 'X' Track). Particular classes of cases shall be assigned to each of these tracks in accordance with regulations established by the chief justice of the land court department. On motion by a party or the court's own motion, where an exceptional cause is shown, cases may be reassigned to a different track or tracking order dates may be extended or modified.

The final disposition of cases in the permit session by the court by dismissal, judgment or otherwise shall be in accordance with the following timeframes which shall commence on the filing of the trial transcript with the court (or in the case of a summary judgment motion, from the date the motion is taken under advisement): A Track in four (4) months, F Track in three (3) months and X Track in two (2) months.

The chief justice of the land court department shall establish a procedure for the assignment to mediation of disputes that have been filed with or transferred to the permit session, and shall promulgate rules, subject to the approval of the chief justice for administration and management, that promote the expeditious resolution of such disputes within the time periods provided in this chapter. The mediators shall be persons who by reason of their past experience in private practice or on the bench have particular skills related to environmental and land use permitting and/or disputes concerning the same. The chief justice of the land court department may approve qualified providers of mediation services. The mediator shall have the protections provided under section 23C of chap-

ter 233, and to the extent that public agencies are participants in the mediation, their deliberations shall not be subject to the provisions of section 23B of chapter 39." and by adding at the end thereof the following section:

"SECTION 18. Section 2 of chapter 211B of the General Laws, as so appearing, is hereby amended in line 2 by striking out the figure '6' and inserting in place thereof the following:— '7'.— were considered.

Pending the question on adoption of the amendments, Mr. Rodrigues of Westport moved that they be amended in proposed section 15, at the end of the fourth paragraph, by inserting after the word "property" the following: "but in all such cases (a) through (d) only if the underlying project or development involves either 25 or more dwelling units or the construction or alteration of 25,000 square feet or more of gross floor area or both", by inserting after the eighth paragraph the following paragraph:

"The Chief Justice of the Land Court shall report to the Chief Justice for Administration and Management (CJAM) and the Chairs of the Judiciary Committee of the General Court on an annual basis, on (1) how many cases are handled under this session; (2) the timelines and timeframes achieved in cases pursuant to this session; and (3) what, if any, additional resources are required by the Land Court to meet the goals of this session. To the extent that the Chief Justice of the Land Court does not have sufficient resources to maintain the timeframes mentioned above, then the Chief Justice for Administration and Management shall assign judges with land use and environmental expertise from other departments of the Trial Court to sit as justices of the Permit Session. In making such appointments, the Chief Justice for Administration shall make reasonable efforts to select justices who by reason of their past experience in private or practice with public agencies or on the bench have particular skills related to environmental and land use permitting and/or disputes concerning the same.", and in the ninth paragraph, in the second sentence, by inserting after the word "practice" the words "or practice with public agencies".

After debate (Mr. Correia of Fall River being in the Chair) the further amendments were adopted.

The amendments recommended by the committee on Ways and Means, as amended, then also were adopted.

Pending the question on ordering the bill, as amended, to a third reading, Mr. Kaufman of Lexington asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Correia), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 146 members were recorded as being in attendance.

[See Yea and Nay No. 418 in Supplement.]

Therefore a quorum was present.

After remarks on the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays,

Quorum.

Quorum,
yea and nay
No. 418.

Bill ordered
to a third
reading,

yea and nay
No. 419.

at the request of Mr. Rodrigues of Westport; and on the roll call (the Speaker being in the Chair) 147 members voted in the affirmative and 4 in the negative.

[See Yea and Nay No. 419 in Supplement.]

Therefore the bill (House, No. 4741, amended) was ordered to a third reading.

Recess.

At twenty minutes after four o'clock P.M., on motion of Mr. Petrolati of Ludlow (the Speaker being in the Chair), the House recessed until twenty minutes before five o'clock; and at five minutes after five o'clock the House was called to order with Mr. Donato of Medford in the Chair.

Under suspension of the rules, on motion of Mr. Rodrigues of Westport, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present.

Quorum.

Mr. Petrolati of Ludlow having taken the Chair and having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,
yea and nay
No. 420.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 145 members were recorded as being in attendance.

[See Yea and Nay No. 420 in Supplement.]

Therefore a quorum was present.

Mr. Smizik of Brookline and other members of the House then moved that the bill be amended by striking out sections 8 and 9 (as printed) and inserting in place thereof the following two sections:

"SECTION 7. Section 10A of chapter 30A of the general Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word 'issue' in line 8, the following:— ; provided that in any proceeding pursuant to chapter 91, at least 5 persons shall reside in the municipality in which the license or permitted activity is located. The intervention shall clearly and specifically state the facts and grounds for intervening and the relief sought, and each person shall file an affidavit stating the intent to be part of the group and to be represented by its authorized representative.

SECTION 13. The department of environmental protection shall adopt rules and regulations consistent with section 10A of chapter 30A of the General Laws on or before January 1, 2007."

Amendment
adopted,
yea and nay
No. 421.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Smizik of Brookline; and on the roll call 149 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 421 in Supplement.]

[Ms. Provost of Somerville answered "Present" in response to her name.]

Therefore the amendment was adopted.

Mr. Eldridge of Acton then moved that the bill be amended in section 13 (as printed), in lines 47 and 48, by striking out the words "designated as a priority development site by the board" and inserting

in place thereof the following: "located: (a) (i) in underutilized buildings or facilities, or on previously used industrial lands, such as brownfields, or in areas of existing dense development or (ii) served by adequate water supplies; or (b) adjacent to highway interchanges or transit stations".

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Eldridge; and on the roll call 35 members voted in the affirmative and 114 in the negative.

Amendment
rejected,
yea and nay
No. 422.

[See Yea and Nay No. 422 in Supplement.]

Therefore the amendment was rejected.

Representatives Wolf of Cambridge and Provost of Somerville then moved that the bill be amended in section 10 (as printed), in lines 7 and 8, by striking out the word "non-residential" and inserting in place thereof the words "commercial or industrial".

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Ms. Wolf; and on the roll call 9 members voted in the affirmative and 141 in the negative.

Amendment
rejected,
yea and nay
No. 423.

[See Yea and Nay No. 423 in Supplement.]

Therefore the amendment was rejected.

Representatives Wolf and Provost then moved that the bill be amended in section 11 (as printed), in line 21, by inserting after the word "time" the words "but has been dismissed or denied", and in line 29, by inserting after the word "time" the words "and that any appeal has been dismissed or denied."

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Fallon of Malden; and on the roll call 52 members voted in the affirmative and 98 in the negative.

Amendments
rejected,
yea and nay
No. 424.

[See Yea and Nay No. 424 in Supplement.]

Therefore the amendments were rejected.

Mr. Scaccia of Boston then moved that the bill be amended in section 13 (as printed), in line 286, by inserting after the word "affairs" the words "in consultation with the state secretary"; and the amendment was adopted.

Mr. Rodrigues of Westport then moved that the bill be amended in section 2 (as printed), in item 7002-0013, in line 12, by inserting after the word "include" the words "input from"; in section 3 (as printed), in lines 5 and 6, by striking out the words "heard or conferred by" and inserting in place thereof the words "assigned to", in line 6, by inserting after the word "appeals" the words "made from decisions, permits, orders or other appealable documents issued", in lines 7, 8 and 9, by striking out the words "and of all decisions filed as relating to appeals from the Department of Environmental Protection by each administrative magistrate", in line 16, by striking out the word "filed" and inserting in place thereof the word "received", in lines 18 and 19, by striking out the words "initial filing of the appeal with" and inserting in place thereof the words "receipt of the appeal by", in line 20, by striking out the words "is made" and inserting in place thereof the following: ", summary decision, or

Permitting
process,
expand.

other interlocutory ruling issued, including the basis for any case at the division for longer than 6 months”, and in lines 22 and 23, by striking out the following: “written decisions are issued within 90 days after a hearing is concluded and” and inserting in place thereof the following: “recommended final decisions are issued within 90 days after”; by striking out section 10 (as printed) and inserting in place thereof the following section:

“SECTION 8. Section 9 of Chapter 40A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the fifteenth paragraph the following:—

In any city or town, in a manner which is consistent with the usual method of adopting zoning changes, which votes to accept the provisions of this paragraph, zoning ordinances or by-laws may provide that research and development uses, whether or not such uses are currently permitted as a matter of right, may be permitted as a main use in any non-residential zoning district which is not a residential, agricultural or open space district upon the issuance of a special permit provided the special permit granting authority finds that such uses do not substantially derogate from the public good.

‘Research and development uses’ shall include any one or more of investigation, development, laboratory and similar research uses and any related office and, subject to the following limitations, limited manufacturing uses and uses accessory to any of the foregoing in any field of science.

‘Limited manufacturing’ shall, subject to the issuance of such special permit, be an allowed use provided that the following requirements are satisfied: (1) such manufacturing activity is related to research uses; (2) no manufacturing activity customarily occurs within fifty (50) feet of a residential district; and (3) substantially all manufacturing activity customarily occurs inside of buildings with any manufacturing activities customarily occurring outside of buildings subject to such conditions as may be imposed in the special permit.”; in section 12 (as printed), in line 8, by striking out the word “Said” and inserting in place thereof the following: “The board of executive directors of the Massachusetts association of regional planning agencies is hereby authorized and charged to develop a state-wide permitting model that municipalities may adopt. The board shall direct each regional planning agency to conduct an evaluation of their member cities’ and towns’ permitting processes and to report their findings to the board. It shall be the responsibility of each regional planning agency to work under the guidance of the board to assist in the development of a state-wide model. Furthermore”; and in section 14 (as printed), in line 4, by striking out the words “Enforceable guidelines” and inserting in place thereof the word “Regulations”, and in lines 5 and 6, by striking out the following sentence: “Said enforceable guidelines shall be issued by July 1, 2006.” and inserting in place thereof the following sentence: “Said regulations shall be issued by July 1, 2007.”.

The amendments were adopted.

Ms. Candaras of Wilbraham being in the Chair,—

Ms. Peisch of Wellesley and other members of the House then moved that the bill be amended by striking out section 15 (as previously inserted by amendment).

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Ms. Peisch; and on the roll call 18 members voted in the affirmative and 133 in the negative.

Amendment
rejected,
yea and nay
No. 425.

[See Yea and Nay No. 425 in Supplement.]

Therefore the amendment was rejected.

Ms. Provost of Somerville and other members of the House then moved that the bill be amended by striking out section 11 (as printed).

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Hynes of Marshfield; and on the roll call 42 members voted in the affirmative and 106 in the negative.

Amendment
rejected,
yea and nay
No. 426.

[See Yea and Nay No. 426 in Supplement.]

Therefore the amendment was rejected.

Ms. Khan of Newton and other members of the House then moved that the bill be amended in section 13 (as printed), in line 47, by striking out the following: “and (3)” and inserting in place thereof the following: “(3) located (a)(i) adjacent to areas of existing development or in underutilized buildings or facilities and (ii) with adequate water and sewer infrastructure and adequate water supplies; or (b) close to appropriate transit services, and (4)”.

After remarks the amendment was rejected.

Representatives DeLeo of Winthrop and Provost of Somerville then moved that the bill be amended in section 15 (as previously inserted by amendment), in the fifth paragraph, in the first sentence, by striking out the word “shall” and inserting in place thereof the word “may”, and by adding at the end of said paragraph the following sentence: “If a party to an action commenced in or transferred to the permit session claims a right to a jury trial then the action shall have a trial in the superior court.”.

The amendments were adopted.

Mr. DeLeo of Winthrop and other members of the House then moved that the bill be amended in section 13 (as printed), in line 59, by inserting after the word “body” the words “, after approval by a town meeting in a town,”.

On the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Rodrigues of Westport; and on the roll call 148 members voted in the affirmative and 0 in the negative.

Amendment
adopted,
yea and nay
No. 427.

[See Yea and Nay No. 427 in Supplement.]

Therefore the amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Rodrigues of Westport; and on the roll call 134 members voted in the affirmative and 15 in the negative.

Bill passed
to be
engrossed,
yea and nay
No. 428.

[See Yea and Nay No. 428 in Supplement.]

Therefore the bill (House, No. 4968, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o’clock A.M.

Next
sitting.

Ms. Rogeness of Longmeadow then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at half past seven o'clock P.M. (Mr. Candaras of Wilbraham being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.